

STATE OF MINNESOTA  
OFFICE ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of Alfred Arnold Ende,  
individually and d/b/a Minnesota Concrete  
& Masonry Construction, a/k/a Trende  
Masonry & Concrete

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

The above-entitled matter came on for a prehearing conference before Administrative Law Judge Kathleen D. Sheehy on October 5, 2005, at 2:30 p.m. at the Office of Administrative Hearings in Minneapolis, Minnesota. The record closed at the conclusion of the prehearing conference.

Christopher M. Kaisershot, Assistant Attorney General, Suite 1200, 445 Minnesota Street, St. Paul, MN 55101-2130, appeared for the Department of Labor and Industry (the Department).

There was no appearance by or on behalf of the Respondent, Alfred Arnold Ende, d/b/a Minnesota Concrete & Masonry Construction, a/k/a Trende Masonry & Concrete.

**NOTICE**

This Report is a recommendation, not a final decision. The Commissioner of the Department of Labor and Industry will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Nancy Leppink, Director of Legal Services, Minnesota Department of Labor and Industry, 443 Lafayette Road, St. Paul, MN 55155, to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

## **STATEMENT OF ISSUES**

The issues presented in this case are whether the Respondent is subject to discipline and/or civil penalties because:

(1) By engaging in unlicensed residential building contractor and/or residential remodeler activities, the Respondent violated Minn. Stat. §§ 326.84, subds. 1 and 1b, and 326.91, subd. 1(5);

(2) By contracting to perform residential remodeling work after the date of the Commissioner's Cease and Desist Order, the Respondent violated Minn. Stat. § 326.91, subd. 1(5);

(3) By advertising that he was a licensed contractor, the Respondent engaged in fraudulent, deceptive, or dishonest practices in violation of Minn. Stat. § 326.91, subd. 1(2); and

(4) By failing to complete remodeling projects, the Respondent breached his contracts causing injury or harm to the public, in violation of Minn. Stat. § 326.91, subd. 1(4);and

(5) By failing to refund a down payment for work that was not performed, the Respondent demonstrated that he is untrustworthy or financially irresponsible, in violation of Minn. Stat. § 326.91, subd. 1(6).

Based on the proceedings herein, the Administrative Law Judge makes the following:

## **FINDINGS OF FACT**

1. On August 22, 2005, the Commissioner of Commerce issued a Notice of and Order for Hearing, Order for Prehearing conference, and Statement of Charges (Notice and Order for Hearing). On August 24, 2005, the Department of Commerce served the Notice and Order for Hearing on the Respondent by first-class mail addressed to Alfred Arnold Ende, Minnesota Concrete & Masonry Construction, Trende Masonry & Concrete, 6256 West Broadway, Brooklyn Park, MN 55428.

2. The Prehearing Conference was scheduled to take place at 2:30 p.m. on October 5, 2005, at the Office of Administrative Hearings.

3. The Notice and Order for Hearing contained the following language:

Respondent's failure to appear at the prehearing conference may result in a finding that Respondent is in default, that the Department's allegations

contained in the Statement of Charges may be accepted as true, and that its proposed disciplinary action may be upheld.

4. The Respondent failed to appear for the prehearing conference on October 5, 2005. He did not contact the Department or the Administrative Law Judge to request a continuance. Because the Respondent failed to appear at the prehearing conference in this matter, he is in default.

5. Pursuant to Minn. R. 1400.6000, the allegations contained in the Statement of Charges at paragraphs 1-8 are hereby taken as true and incorporated into these Findings of Fact.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge and the Commissioner of Labor and Industry have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 45.027, 326.91, subd. 4, and 326.92, subd. 3.

2. The Notice and Order for Hearing issued by the Department was proper, and the Department has fulfilled all relevant procedural requirements of law and rule.

3. The Respondent is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Statement of Charges are hereby taken as true.

4. By engaging in unlicensed residential building contractor and/or residential remodeler activities, the Respondent violated Minn. Stat. §§ 326.84, subds. 1 and 1b, and 326.91, subd. 1(5).

5. By contracting to perform residential remodeling work after the date of the Commissioner's Cease and Desist Order, the Respondent violated Minn. Stat. § 326.91, subd. 1(5).

6. By advertising that he was a licensed contractor, the Respondent engaged in fraudulent, deceptive, or dishonest practices in violation of Minn. Stat. § 326.91, subd. 1(2).

7. By failing to complete remodeling projects, the Respondent breached his contracts causing injury or harm to the public, in violation of Minn. Stat. § 326.91, subd. 1(4).

8. By failing to refund a down payment for work that was not performed, the Respondent demonstrated that he is untrustworthy or financially irresponsible, in violation of Minn. Stat. § 326.91, subd. 1(6).

9. The imposition of discipline and/or civil penalties against the Respondent is in the public interest.

Based on the above Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS RECOMMENDED that the Commissioner of Labor and Industry take disciplinary action and assess appropriate civil penalties against the Respondent.

Dated this 7th day of January, 2007

s/Kathleen D. Sheehy  
KATHLEEN D. SHEEHY  
Administrative Law Judge

Reported: Default

### **NOTICE**

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.